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Thomas Huber

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THOMAS, JASON M

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/688,075	<b>Applicant(s)</b> HUBER ET AL.	
	<b>Examiner</b> Jason Thomas	<b>Art Unit</b> 2423	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/11/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see pages 9 - 13, filed December 11, 2008, with respect to the rejection(s) of claim(s) 1-16 under U.S.C. Section 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Pudar, U.S. Pre-Grant Pub. No. 2002/0184091 A1 (hereinafter Pudar) and Jeannin et al., U.S. Pre- Grant No. 2002/0083469 A1 (hereinafter Jeannin).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak, U.S. Pat. No. 6,006,257 (hereinafter Slezak) in view of Bacon et al., U.S. Pat. No. 6,212,278 B1 (hereinafter Bacon), Morrison, U.S. Pat. No. 5,815,671 (hereinafter Morrison) and Pudar.

**Regarding claim 1:** Slezak discloses a method of presenting advertising in a subscriber broadcast system, the method comprising:

offering an upgraded advertising service (see [cols. 3-4, ll. 63-4], [col. 8, ll. 21-32] for offering upgraded advertising services);

receiving subscriptions to said upgraded advertising service (see [cols. 3-4, ll. 63-4], [col. 8, ll. 21-32], [col. 10, ll. 59-60], [col. 11, ll. 14-17] where selecting a full, half, or no charge subscribing for an upgraded advertising service); and

receiving a plurality of video feeds including a plurality of advertisements (see [figs 4], [col. 5, ll. 11-16], [col. 5, ll. 42-54], [col. 11, ll. 52-62] for system which receives a plurality of video feeds which include secondary programming such as advertisements).

Slezak is silent regarding: delivering set top box computer program code to a plurality of set top boxes, each set top box being associated with an upgraded advertising service subscriber; providing indicators for a first advertisement and a second advertisement of said plurality of advertisements wherein said indicators include a first priority level indicator and a first category indicator associated with the first advertisement, and a second priority level indicator and a second category indicator associated with the second advertisement; and broadcasting a video signal comprising program content, said plurality of advertisements, and said indicators to the plurality of set top boxes, wherein the set top box computer program code is to:

compare the first category indicator and the second category indicator to a stored category value; compare the first priority level indicator and the second priority level indicator; and select said second advertisement when the second

category indicator corresponds to said stored category value and the second priority level indicator is greater than or equal to said first priority level indicator.

Bacon teaches delivering set top box (STB) computer program code to a plurality of STBs (see [abstract] for a reprogrammable subscriber terminal capable of receiving downloads of new program code from the headend).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify STB by enabling it to receive updated or new code as taught by Bacon in order to change parameters or add new features (see [col. 1, ll. 59-63]).

Morrison teaches broadcasting a video signal comprising program content, said plurality of advertisements, and category indicators to the plurality of set top boxes (STB) wherein a STB is used to receive and store message materials (advertisements) which contain coded information (indicators) identifying the category, program affiliation, frequency and other identifying fields to dictate how and when the message material is to be retrieved and placed within the primary programming received by the STB (see [abstract], [table], [col. 3, ll. 32-55]) but does not teach the concept of comparing the first category indicator and the second category indicator to a stored category value; comparing a first priority level indicator and a second priority level indicator; and selecting said second advertisement when the second category indicator corresponds to said stored category value and the second priority level indicator is greater than or equal to said first priority level indicator.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the broadcaster and receiver by enabling the broadcaster to transmit advertisements with indicators and the STB receivers to receive and store said advertisements for later retrieval as taught by Morrison in order to enable the STB to identify and provide targeted advertisements to specific program subscribers (see [abstract]).

Pudar teaches a broadcast system where the ads to be inserted into the primary programming contain category and priority indicators associated with each individual ad; and wherein a first ad and subsequent (second) ad category can be compared to a stored category value and wherein a first and subsequent (second) ad can be compared, with respect to their priority, to determine which is to be inserted based on the priority level (see [fig. 7-9], [34], [35]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the broadcast system which includes indicators and a STB which controls the use of said indicators by including additional indicator fields, such as priority, such that the categories of each potential ad can be compared by the receiving device to a stored category value and the priority data of one ad can be compared to the priority data of another ad to determine which ad should be selected as taught by Pudar in order to improve the targeting of advertising to users (see [abstract], [5]).

**Regarding claim 4:** The combined teachings of Slezak, in view of Bacon, Morrison and Pudar, teach downloading an advertisement and corresponding

indicator to local storage of a set top box (see Morrison [fig. 2, 28], [table 1], [col. 3, ll. 16-34] where multiple advertisement materials are downloaded to the receiver's storage for subsequent retrieval).

**Regarding claim 5:** The combined teachings of Slezak, in view of Bacon, Morrison and Pudar, teach further comprising: selecting said plurality of advertisements based upon demographic characteristics of said plurality of set top boxes (see Slezak [col. 1, ll. 31-51], [col. 2, ll. 15-18], [col. 3, ll. 45-62] for selecting secondary programming such as advertisements based upon the viewer demographics).

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak, in view of Bacon, Morrison, Pudar and Jeannin.

**Regarding claim 2:** The combined teachings of Slezak, in view of, Bacon Morrison and Pudar, do not explicitly teach the method of claim 1 further comprising: receiving a request for an advertising category from at least one subscriber of said plurality of subscribers.

Jeannin teaches receiving a request for an advertising category from at least one subscriber (see [fig. 6]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user interface of Morrison receiver by including an interface which allows the subscriber to specify which category of ads he/she would like to see, as taught by Jeannin in order to allow the

subscriber to select a preferred categories of advertisements and filter out undesired categories of advertisements (see [abstract]).

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak, in view of Bacon, Morrison, Pudar, and Eldering et al., U.S. Pre- Grant Pub. 2002/0083443 A1 (hereinafter Eldering).

**Regarding claim 3:** The combined teachings of Slezak, in view of Bacon, Morrison and Pudar, do not teach broadcasting an advertising indicator that includes a network address for an advertisement that can be accessed across a network.

Eldering teaches broadcasting an advertising indicator that can be retrieved using a network address (see [abstract], [6], [31], [67]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include a broadcast a network address as a form of pointer or advertising indicator, as taught in Eldering, when broadcasting said indicators, as taught in Slezak, because this would allow for more space to be reserved for storing non-advertisement contents in local storage.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak, in view of Morrison, Pudar and Jeannin.

**Regarding claim 6:** Slezak teaches a method for displaying user selected advertising in a subscriber broadcast system (see [col. 3, ll. 45-62]) and also teaches the concept of determining if standard advertisement may be replaced with an upgraded advertisement and accessing upgraded advertisement content



if it is determined that said standard advertisement may be replaced with an upgraded advertisement (see [cols. 3-4, ll. 63-48] where the standard advertisement is represented by, tailored interactive advertisements and related advertisement questions, where the upgraded advertisement would simply include traditional advertisements without interactivity or questions) but does not teach the method comprising:

requesting a category of advertisement from a plurality of advertisement categories, the category being selected by a subscriber, the selected category of advertisement having an associated stored category value;

receiving a video signal comprising program content, a standard advertisement, and an advertisement indicator, wherein said advertisement indicator indicates a priority level and a category value for an advertisement corresponding to the category;

wherein the upgraded advertisement content includes a first advertisement and a second advertisement, and wherein a first advertisement indicator including a first priority level indicator and a first category indicator is associated with the first advertisement and a second advertisement indicator including a second priority level indicator and a second category indicator is associated with the second advertisement;

selecting between said first advertisement and said second advertisement by:

comparing the first category indicator and the second category indicator to a stored category value;

comparing the first priority level indicator and the second priority level indicator; and

selecting said second advertisement when the second category indicator of said second advertisement corresponds to said stored category value and the second priority level indicator is greater than or equal to said first priority level indicator; and displaying the selected advertisement.

Morrison teaches broadcasting a video signal comprising program content, said plurality of advertisements, and category indicators to be received by a plurality of set top boxes (STB) wherein a STB is used to receive and store message materials (advertisements) which contain coded information (indicators) identifying the category, program affiliation, frequency and other identifying fields to dictate how and when the message material is to be retrieved and placed within the primary programming received by the STB for display (see [abstract], [table], [col. 3, ll. 32-55]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the broadcaster and receiver by enabling the broadcaster to transmit advertisements with indicators and the STB receivers to receive and store said advertisements for later retrieval as taught by Morrison in order to enable the STB to identify and provide targeted advertisements to specific program subscribers (see [abstract]).

Pudar teaches a broadcast system where the ads to be inserted into the primary programming contain category and priority indicators associated with each individual ad; and wherein a first ad and subsequent (second) ad category can be compared to a stored category value and wherein a first and subsequent (second) ad can be compared, with respect to their priority, to determine which is to be inserted based on the priority level (see [fig. 7-9], [34], [35]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the broadcast system which includes indicators and a STB which controls the use of said indicators by including additional indicator fields within standard and upgraded advertisement, such as priority, such that the categories of each potential ad can be compared by the receiving device to a stored category value and the priority data of one ad can be compared to the priority data of another ad to determine which ad should be selected as taught by Pudar in order to improve the targeting of advertising to users (see [abstract], [5]).

Jeannin teaches receiving a request for an advertising category from at least one subscriber (see [fig. 6]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user interface of the Morrison receiver by including an interface which allows the subscriber to specify which category of ads he/she would like to see, as taught by Jeannin in order to allow

the subscriber to select a preferred categories of advertisements and filter out undesired categories of advertisements (see [abstract]).

5. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak, in view of, Emura, Dudkiewicz et al., U.S. Pat. No. 6,973,665 B2 (hereinafter Dudkiewicz) and Pudar.

**Regarding claims 7 and 14:** Slezak discloses an upgraded advertising production system comprising: a processor (see [col. 7, ll. 26-40] for a cpu); an advertisement detector to receive a video feed comprising program content and advertising (see [cols. 3-4, ll. 63-13] where it inherently is capable of having a detector to detect an advertising period in a video feed in that it is able to control the amount of advertising displayed); a channel multiplexer to receive said program content, at least one advertisement and to format said program content, said at least one advertisement (see [fig. 10], [col. 3, ll. 29-32], [col. 6, ll. 25-47], [col. 10, ll. 52-66]); and a transmitter to transmit said program content, said at least one advertisement (see [fig. 4, 96], [col. 7, ll. 54-65], [col. 11, ll. 52-67]).

Slezak does not teach using advertisement indicators to a set top box or wherein said at least one advertisement indicator includes a priority level indicator and category indicator for a corresponding advertisement.

Dudkiewicz teaches using programming indicators which include category indicators to describe the program and an editor that can create, modify, and delete metadata containing indicator information for at least one programming

indicator associated with the programming contained in said video feed (see [cols. 13-14, ll. 66-36]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to provide the ability to modify programming indicators, as taught in Dudkiewicz, when delivering programming, in the form of advertisements with the ability to target, as taught in Slezak, because this provides a means for users with proper access to add, delete or change descriptive information to better describe the programming content (see [cols. 13-14, ll. 66-36]).

Slezak nor Dudkiewicz explicitly teach including a priority level as an indicator.

Emura teaches assigning priority levels to advertisement content as in the form of importance indicators (see [151], [550], [551]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include an indication of the priority of the content, as taught in Emura, when providing other information such as category information, as taught in Dudkiewicz, because priority information can allow programming of high importance to be delivered to the viewer in a more effective manner (see [551]).

However neither Slezak, Dudkiewicz nor Emura teach wherein said at least one advertisement indicator including a priority level indicator and a category indicator for a corresponding advertisement are used to allow a

computer program code to compare a first category indicator associated with a first advertisement and a second category indicator associated with a second advertisement to a stored category value, compare a first priority level indicator associated with said first advertisement with a second priority level indicator associated with said second advertisement, and select said second advertisement when the second category indicator corresponds to said stored category value and said second priority level indicator is greater than or equal to said first priority level indicator.

Pudar teaches a broadcast system where the ads to be inserted into the primary programming contain category and priority indicators associated with each individual ad; and wherein a first ad and subsequent (second) ad category can be compared to a stored category value and wherein a first and subsequent (second) ad can be compared, with respect to their priority, to determine which is to be inserted based on the priority level (see [fig. 7-9], [34], [35]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the broadcast system which includes indicators and a STB which controls the use of said indicators by including additional indicator fields within standard and upgraded advertisement, such as priority, such that the categories of each potential ad can be compared by the receiving device to a stored category value and the priority data of one ad can be compared to the priority data of another ad to determine which ad should be

selected as taught by Pudar in order to improve the targeting of advertising to users (see [abstract], [5]).

6. Claims 8, 9, 12, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak, in view of, Morrison, Emura and Pudar.

**Regarding claims 8 and 15:** Slezak discloses a set top box to selectively display upgraded advertising comprising: a processor (see [col. 8, ll. 5-10] for a cpu); an audio/video processor to output audio and video signals to a display unit (see [col. 3, ll. 45-52], [col. 4, ll. 45-48], [col. 8, ll. 1-17]); and a tuner controlled by said processor that receives a video input (see [col. 8, ll. 13-14] for an NTSC tuner) but does not teach receiving a video input comprising program content wherein the program content comprises a first advertisement, a first advertisement indicator, a second advertisement, and a second advertisement indicator wherein said first advertisement indicator and said second advertisement indicator both identify a category of the advertisement and a priority level; first computer program code operating on said processor to compare the first category indicator and the second category indicator to a stored category value and to compare the first priority level indicator with the second priority level indicator and to select said second advertisement when the second category indicator corresponds to said stored category value and the second priority level indicator is greater than or equal to said first priority level indicator; and

second computer program code to provide said first advertisement to said audio/video processor if said first advertisement is selected and to access and provide said second advertisement to said audio/video processor if said second advertisement is selected.

Morrison teaches a tuner controlled by said processor that receives a video input comprising program content wherein the program content comprises at least a first advertisement, a first advertisement indicator, and subsequent advertisements, and as would follow, subsequent advertisement indicators wherein all of the advertisement indicators include a category of the advertisement (see [tbl.1], [fig. 2 item 12], [col. 3, ll. 16-55], [col. 5, ll. 1-14] see where at multiple ads are received each having indicators (which would includes first and second indicators) which are matched with the categories as provided in [tbl. 1] to be inserted when appropriate); a first computer program code operating on said processor that detects the advertisement indicators compares the category of the associated advertisement to a stored category value and selects the advertisement which is in agreement with said stored category value (see [fig. 5], [col. 3, ll. 16-55], [cols. 5-6, ll. 67-5] where [figs. 5 and 6] lays out portions of a program process which selects said advertisement to be inserted); second computer program code that provides said first advertisement to said audio/video processor if said first advertisement is selected and that accesses and provides the selected advertisement to said audio/video processor (see [fig. 2], [fig. 6, item 110], [col. 4, ll. 2-13], [cols. 5-6, ll. 67-5] for a device which has portions of



programming routines which enables it to select based on category, and then to display contents audio and video through insertion).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to provide: a tuner which is controllable; advertisement indicators which contain characteristics of the incoming advertisement contents; and code that is able to make use of the incoming indicator information by comparing said information, as taught in Morrison, when delivering a subscriber broadcast system, as taught in Slezak, because a tuner must be controlled by a processing device and it is common for such a controlled tuner to be capable of receiving contents which contain coded items such as indicators and said tuner (see [col. 3, ll. 5-15]), furthermore it would be expected that some program is necessary to detect and process said indicators in order to create some order amongst the incoming material based on included category and priority information (see Morrison [col. 1, ll. 62-67], [col. 5, ll. 67 - col. 6, ll. 5]).

Morrison however does not explicitly teach including a priority level in said indicator.

Emura teaches assigning priority levels to advertisement content as in the form of importance indicators (see [151], [550], [551]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include an indication of the priority of the content, as taught in Emura, when providing a way to compare descriptive information such as category information, as taught in Morrison, because priority information can

allow content of a specific priority to be transferred according to a current need (see [551]).

However Slezak, Morrison and Emura do not teach comparing the first category indicator and the second category indicator to a stored category value and to compare the first priority level indicator with the second priority level indicator and to select said second advertisement when the second category indicator corresponds to said stored category value and the second priority level indicator is greater than or equal to said first priority level indicator.

Pudar teaches a broadcast system where the ads to be inserted into the primary programming contain category and priority indicators associated with each individual ad; and wherein a first ad and subsequent (second) ad category can be compared to a stored category value and wherein a first and subsequent (second) ad can be compared, with respect to their priority, to determine which is to be inserted based on the priority level (see [fig. 7-9], [34], [35]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the broadcast system which includes indicators and a STB which controls the use of said indicators by including additional indicator fields within standard and upgraded advertisement, such as priority, such that the categories of each potential ad can be compared by the receiving device to a stored category value and the priority data of one ad can be compared to the priority data of another ad to determine which ad should be

selected as taught by Pudar in order to improve the targeting of advertising to users (see [abstract], [5]).

**Regarding claim 9:** The combined teachings of Slezak, in view of, Morrison, Emura and Pudar, teach further comprising computer program code to process a user input and store said stored category value in said set top box (see Morrison [fig. 2, 28], [col. 3, ll. 16-34] where primary and secondary materials are downloaded to the receiver's storage for subsequent retrieval).

**Regarding claim 12:** The combined teachings of Slezak, in view of, Morrison, Emura and Pudar, teach wherein said second computer program code further comprises code that is configured to acquire said second advertisement across a network (see Slezak [fig. 1], [col. 4, ll. 49-58], [col. 5, ll. 1-10], [col. 8, ll. 43-52] for acquiring secondary programming across a network through the where computer program code inherently is comprises a plurality of code or computer program code routines that work together to provide functionality to a system such as that of a set top box or PC).

**Regarding claim 13:** The combined teachings of Slezak, in view of, Morrison, Emura and Pudar, teach a video combiner to combine a portion of said first advertisement with a portion of said second advertisement (see Slezak [fig. 10], [col. 10, ll. 61-64]).

7. Claims 10, 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak, in view of Morrison, Emura, Purdar and Wachob, U.S. Pat. No. 5,155,591 (hereinafter Wachob).

**Regarding claim 10:** The combined teachings of Slezak, in view of, Morrison, Emura and Pudar, do not teach computer program code to recognize a remote control input as being specific to one user and to select said stored category value from a plurality of stored category values based upon an identifier of said one user.

Wachob teaches means implicit of executable instructions that recognize a remote control input as being specific to one user and selects said stored category value from a plurality of stored category values based upon an identifier of said one user (see [figs. 2 & 4], [col. 1, ll. 48-55], [col. 2, ll. 10-23], [col. 2, ll. 37-42]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to provide a means for identifying multiple users, as taught in Wachob, when delivering a subscriber broadcast system, as taught in the combined teachings of Slezak, in view of, Morrison, Emura and Pudar, because it is common for multiple viewers with differing preference to live in the same location and use the same display apparatus (see Wachob [col. 2, ll. 13-17], [col. 2, ll. 37-40]).

**Regarding claim 11:** The combined teachings of Slezak, in view of, Morrison, Emura and Pudar, do not explicitly teach a second computer program code further comprises code that is configured to adjust said tuner to receive said second advertisement.

Wachob teaches control functions (programming code) that further comprise adjusting said tuner to receive said second advertisement (see [col. 4, ll. 41-55], [col. 6, ll. 50-67]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to adjust a tuner to tune to another channel, as taught in Wachob, to view an alternate advertisement, as taught in Slezak, because such methods are well known to those skilled in the art (see [col. 4, ll. 45-49]).

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak, in view of Bacon, Morrison, Emura, Pudar and Wachob, U.S. Pat. No. 5,155,591 (hereinafter Wachob).

**Regarding claim 16:** Slezak discloses the method of claim 1, further including: defining a plurality of advertising categories (see [cols. 3-4, ll. 63-14], [col. 8, ll. 18-42] for a plurality of advertising categories such as none, some or many) but does not teach receiving user requests for said advertising categories; determining a count of advertisements viewed in each category of said plurality of advertising categories; and creating a billing statement reflecting said count of advertisements in each category.

Jeannin teaches receiving a request for an advertising category from at least one subscriber (see [fig. 6]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user interface of the Slezak receiver by including an interface which allows the subscriber to specify which

category of ads he/she would like to see, as taught by Jeannin in order to allow the subscriber to select a preferred categories of advertisements and filter out undesired categories of advertisements (see [abstract]).

Wachob teaches providing billing data, from accurate commercial tracking, which reflects said count of advertisements (see [col. 2, ll. 43-48], [col. 3, ll. 48-51], [col. 9, ll. 15-19], [col. 10, ll. 27-28]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to provide billing data, as taught in Wachob, when delivering a subscriber broadcast system, as taught in Morrison, because this would be expected, when alternating which commercials are displayed based on user data, to provide market research functions and enable accurate billing of advertisers for the commercials presented to the users (see [col. 2, ll. 43-48]).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Thomas whose telephone number is (571) 270-5080. The examiner can normally be reached on Mon. - Thurs., 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2423

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